

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2358.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 20, 2011.

[R11-174]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action**
R12-4-121 Amend
- 2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-102, 17-231(A)(2), (3), (8), 17-331(A), 17-332(A), and 17-346(D)
- 3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
Notice of Rulemaking Docket Opening: 17 A.A.R. 2345, November 18, 2011 (*in this issue*)
- 4. The agency's contact person who can answer questions about the rulemaking:**
Name: Celeste Cook, Rules Analyst
Address: Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086
Telephone: (623) 236-7390
Fax: (623) 236-7677
E-mail: ccook@azgfd.gov
Please visit the AZGFD web site to track progress of this rule and any other agency rulemaking matters at http://www.azgfd.gov/inside_azgfd/rules/rulemaking_updates.shtml.
- 5. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
Laws 2010, 2nd Regular Session, Ch. 287, § 28(B)(7) allows an agency to eliminate or replace archaic or illegal rules.
On May 20, 2011, the Governor's office approved the Commission's request to pursue rulemaking to amend R12-4-121.
The Commission proposes to amend R12-4-121 to establish requirements for transferring a big game tag to an eligible minor child or grandchild. Laws 2007, 1st Regular Session, Ch. 5, amended A.R.S. § 17-332 to allow grandparents to transfer their unused big game tag to their minor grandchild. The current rule is more restrictive than statute as it allows only a parent or legal guardian to transfer their unused big game tag to their minor child. The Department implemented an internal policy that allows the Customer Service Program to comply with the statutory requirements

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and, as a result, the Department policy allows an activity not authorized under rule. In addition, persons unable to use their big game tag are not aware of their ability to transfer the tag to their minor grandchild.

6. **A reference to any study relevant to the rule that the agency reviewed and proposes to either rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The agency did not rely on any study in its evaluation of or justification for the rule.

7. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

8. **The preliminary summary of the economic, small business, and consumer impact:**

The Commission anticipates the proposed rulemaking will benefit the regulated community and the Department by replacing archaic information and aligning the rule with statute. In addition, the Commission anticipates the rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

9. **The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

See item 4.

10. **The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: February 10, 2012

Time: 8:00 a.m. to 5:00 p.m.

Location: 5000 W. Carefree Highway
Phoenix, AZ 85086

Close of record: February 10, 2012

11. **All agency's shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

- a. **Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:**

The rule does not require a permit.

- b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal law is not applicable to the subject of the rule.

- c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

The agency has not received an analysis that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.

12. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

Not applicable

13. **The full text of the rules follows:**

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section

R12-4-121. Big Game Permit or Tag Transfer

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

R12-4-121. Big Game Permit or Tag Transfer

- A.** A parent or guardian to whom a big game hunt permit-tag is issued may transfer the unused permit or tag to the parent's guardian's minor child may transfer the unused permit or tag to the parent's or guardian's minor child, if:
1. The minor child is from 10 to 17 years old on the date of transfer;
 2. The minor child has a valid hunting license on the date of transfer; and
 3. A minor child less than 14 years old satisfactorily completes a Department approved hunter education course by the beginning date of the hunt.
- B.** A parent or guardian may obtain a transfer, in person, at any Department office. To obtain a transfer, a parent, or guardian shall provide the following:
1. Proof of ownership of the big game permit or tag to be transferred;
 2. The minor's valid hunting license; and
 3. The unused big game permit or tag.
- C.** An individual to whom a hunt permit tag is issued or the individual's legal representative may donate the unused tag to a non-profit organization if:
1. The organization is exempt from federal taxation under Section 501(c) of the Internal Revenue Code;
 2. The organization provides opportunities and experiences to children with life-threatening medical conditions; and
 3. The individual or legal representative that donates the tag provides the organization with some type of statement that indicates that the tag is voluntarily donated to that organization.
- D.** A non-profit organization that receives a hunt permit tag under subsection (C) may obtain a transfer by contacting any Department office. To obtain a transfer, an organization shall:
1. Provide proof of donation of the big game permit tag to be transferred;
 2. Provide the unused big game permit or tag;
 3. Provide proof of the minor child's valid hunting license; and
 4. Transfer the tag to a minor child who meets the following criteria:
 - a. Has a life-threatening medical condition;
 - b. Is 10 to 17 years old by the date of the transfer;
 - c. Has a valid hunting license; and
 - d. If is less than 14 years old, satisfactorily completes a Department approved hunter education course before the beginning date of the hunt.
- E.** The Department shall issue a transfer permit or tag in the name of the minor child if it is lawfully submitted according to this Section.
- A.** For the purposes of this Section, "unused tag" means a big game hunt permit-tag, non-permit tag, or special license tag that has not been attached to any animal.
- B.** A parent, grandparent, or guardian issued an unused tag to the parent's, grandparent's, or guardian's minor child or grandchild.
1. A parent, grandparent, or guardian may transfer the unused tag to a minor child or grandchild at any time prior to the end of the season for which the unused tag was issued.
 2. A parent, grandparent, or guardian may transfer the unused tag by providing all of the following documentation in person at any Department office:
 - a. Proof of ownership of the unused tag be transferred.
 - b. The unused tag, and
 - c. The minor's valid hunting license.
 3. If a parent, grandparent, or legal guardian is deceased, the personal representative of the individual's estate may transfer an unused tag to an eligible minor. In addition to the requirements established under subsection (A)(2), the individual acting as the personal representative shall present:
 - a. The deceased individual's death certificate, and
 - b. Proof of the individual's authority to act as the personal representative of the deceased individual's estate.
 4. To be eligible to receive an unused tag under subsection (A), the minor child shall meet the criteria established under subsection (D).
 5. A minor child or grandchild receiving an unused tag from a parent, grandparent, or legal guardian shall be accompanied into the field by:
 - a. Any parent or legal guardian of the eligible minor when the unused tag is transferred to the minor child from a parent or legal guardian; or
 - b. Any grandparent, parent, or legal guardian of the eligible minor when the unused tag is transferred to the minor child from a grandparent.
- C.** An individual issued a tag or the individual's legal representative may donate the unused tag to a non-profit organization for use by a minor child who has a life threatening medical condition or permanent physical disability.

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1. A qualifying organization:
 - a. Is exempt from federal taxation under Section 501(c) of the Internal Revenue Code, and
 - b. Provides hunting opportunities and experiences to children with life-threatening medical conditions or permanent physical disabilities.
2. The individual or legal representative that donates the unused tag shall provide the non-profit organization with a written statement indicating the unused tag is voluntarily donated to the organization.
3. The non-profit organization receiving a donated tag under subsection (C) may transfer the unused tag to an eligible minor child by contacting any Department office.
 - a. To obtain a transfer, the non-profit organization shall:
 - i. Provide proof of donation of the unused tag to be transferred.
 - ii. Provide the unused tag.
 - iii. Provide proof of the minor child's valid hunting license, and
 - b. To be eligible to receive a donated unused tag under subsection (B), the minor child shall meet the criteria established under subsection (D).
- D.** To receive an unused tag authorized under subsection (A) or (B), an eligible minor child shall meet the following criteria:
 1. Possess a valid hunting license, and
 2. Is 10 to 17 years of age on the date of the transfer. A minor child under the age of 14 shall have satisfactorily completed a Department-approved hunter education course before the beginning date of the hunt.

NOTICE OF PROPOSED RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 2358.) The Governor's Office authorized the notice to proceed through the rulemaking process on May 20, 2011.

[R11-175]

PREAMBLE

1. Article, Part, or Section Affected (as applicable) Rulemaking Action
R12-4-202 Amend
2. Citations to the agency's statutory authority to include the authorizing statute (general) and the implementing statute (specific):
Authorizing statute: A.R.S. § 17-231(A)(1)
Implementing statute: A.R.S. §§ 17-332(F), 17-333(9), and 17-336(2)
3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:
Notice of Rulemaking Docket Opening: 17 A.A.R. 2346, November 18, 2011 (*in this issue*)
4. The agency's contact person who can answer questions about the rulemaking:
Name: Celeste Cook, Rules Analyst
Address: Game and Fish Department
5000 W. Carefree Highway
Phoenix, AZ 85086
Telephone: (623) 236-7390
Fax: (623) 236-7677
E-mail: ccook@azgfd.gov
Please visit the AZGFD web site to track progress of this rule and any other agency rulemaking matters at http://www.azgfd.gov/inside_azgfd/rules/rulemaking_updates.shtml.

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5. An agency's justification and reason why the rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

Laws 2010, 2nd Regular Session, Ch. 287, § 28(B)(7), which allows an agency to eliminate or replace archaic or illegal rules.

On May 20, 2011, the Governor's office approved the Department's request to pursue rulemaking to amend R12-4-202.

The Commission proposes to amend R12-4-202 to remove the requirement that the Department of Veterans' Services (DVS) include the applicant's date of birth. The DVS certification does not consistently provide the date of birth information. Because the date of birth requirement is required by rule, an applicant whose certification does not include the date of birth information is denied a disabled veteran's license. When an application is denied for this reason, the disabled veteran must put forth additional time and effort to obtain and resubmit a compliant DVS certification.

The rule is also amended to ensure conformity to Arizona Administrative Procedure Act, the Secretary of State, and the Governor's Regulatory Review Council rulemaking format and style requirements.

6. A reference to any study relevant to the rule that the agency reviewed and proposes to either rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The agency did not rely on any study in its evaluation or justification for the rule.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The Commission anticipates the proposed rulemaking will make the Disabled Veteran's license application less burdensome and will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

The Department currently issues approximately 490 Disabled Veteran's Licenses each fiscal year. Since the Department already has a mechanism in place for the application review and issuance or denial of Disabled Veteran's Licenses, the Commission has determined that the rulemaking will not require any additional full-time employees to implement and enforce the proposed rule.

The Commission anticipates the proposed rulemakings will benefit the regulated community and the Department.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

See item 4.

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: February 10, 2012

Time: 8:00 a.m. to 5:00 p.m.

Location: 5000 W. Carefree Highway
Phoenix, AZ 85086

Nature: Oral Proceeding

Close of record: February 10, 2012

11. All agency's shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used, and if not, the reason why a general permit is not used:

The rule does not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is not applicable to the subject of this rule.

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c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

The agency has not received an analysis that compares the impact of the competitiveness of business in this state to the impact on business in other states.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS

Section

R12-4-202. Disabled Veteran's License

ARTICLE 2. MISCELLANEOUS LICENSES AND PERMITS

R12-4-202. Disabled Veteran's License

- A.** A disabled veteran's license grants all of the hunting and fishing privileges of a Class F combination hunting and fishing license and an urban fishing license.
- B.** An individual ~~who meets~~ meeting the criteria ~~in~~ prescribed under A.R.S. § 17-336(2) may apply for a disabled veteran's license ~~as follows~~. Eligibility for the disabled veteran's license is based on 100% disability, ~~and~~ not on the percentage of compensation received by the veteran.
1. An applicant ~~for desiring~~ a disabled veteran's license shall apply on an application form furnished by the Department and available from at any Department office. The applicant shall provide all of the following information on the application form:
 - a. The applicant's ~~name, date of birth, Department identification number, and physical description:~~
 - i. Name,
 - ii. Date of birth,
 - iii. Department identification number,
 - iv. Physical description;
 - b. ~~Current residence or physical location of residence~~ All physical addresses for the calendar year immediately preceding application;
 - c. ~~Current mailing~~ Mailing address; and
 - d. ~~If the applicant has resided at the current residence or physical location of residence for less than one year, the address or physical location of each residence within the year immediately preceding application; and~~
 - e. ~~The applicant's signature, either acknowledged before a Notary Public or witnessed by a Department employee or notarized acknowledged.~~
 2. An applicant shall submit with the application form an original certification from the Department of Veterans' Services, ~~that includes~~ The certification shall include all of the following information:
 - a. ~~Full~~ The applicant's full name and date of birth of the applicant;
 - b. Certification that the applicant is receiving compensation for permanent service-connected disabilities rated as 100% disabling;
 - c. Certification that the 100% rating is permanent and:
 - i. ~~will~~ Will not require reevaluation, or
 - ii. ~~that the 100% rating is permanent but will~~ Will be reevaluated in three years; and
 - d. ~~Signature~~ The signature and title of an agent of the Department of Veterans' Services who issued or approved the certification.
- C.** If the certification required under subsection (B)(2)(c) indicates that the applicant's disability rating of 100% is permanent and:
1. Will not be reevaluated, the disabled veteran's license will not expire.
 2. Will be reevaluated in three years, the disabled veteran's license will expire three years from the date of issuance.
- C.D.** The Department shall deny a disabled veteran's license ~~if~~ to an applicant who:
1. ~~is~~ Is not eligible for the license,
 2. ~~fails~~ Fails to comply with the requirements of this Section, or
 3. ~~provides~~ Provides false information during the application process.

- E.** The Department shall provide written notice to the applicant if the disabled veteran's license is denied. The applicant may appeal the denial to the Commission as prescribed ~~in~~ under A.R.S. Title 41, Chapter 6, Article 10.
- ~~D.F.~~** A disabled veteran's license holder may request a duplicate license if:
1. The license has been lost or destroyed;
 2. The license holder submits a written request to the Department for a duplicate license; and
 3. The Department has a record that shows a disabled veteran's license was previously issued to that individual.
- ~~E.~~** ~~If the certification required in subsection (B) indicates that the applicant's disability rating of 100% is permanent but will be reevaluated, the disabled veteran's license is valid for three years from the date of issuance. If the Department of Veterans' Services certifies that the applicant's disability rating of 100% is permanent and will not be reevaluated, the license does not need to be renewed.~~